

WILLIAM LAVALLO

APRIL 23, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. R. 5922]

The Committee on the Judiciary, to whom was referred the bill (H. R. 5922) for the relief of William Lavallo, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The amendment is as follows:

Page 2, lines 5 and 6: Strike "in excess of 10 per centum thereof".

PURPOSE

The purpose of the proposed legislation is to pay the sum of \$407.90 to William Lavallo, of Jersey City, N. J., on the condition that he use it to satisfy the amount of judgment and costs entered against him on May 29, 1956, in the courts of the State of New Jersey as the result of an accident which occurred on September 8, 1955, involving a Government vehicle he was driving in the course of his duties as an employee of the Department of the Navy.

STATEMENT

On September 8, 1955, an accident occurred at the intersection of 33d Street and Broadway in Bayonne, N. J., which involved a Government vehicle driven by Mr. William Lavallo and a 1950 Ford sedan owned and operated by a Mr. Peter DeVenuta. Mr. DeVenuta submitted a claim with the Government for administrative settlement under the Federal Tort Claims Act in the amount of \$382.75 for the damage done to his vehicle. The resulting investigation placed the responsibility for the accident on Mr. DeVenuta and not the Government driver. Accordingly, the United States denied his claim and asserted a claim against him for \$92.82 for the damages to the Govern-

ment vehicle. Mr. DeVenuta's insurance carrier refused to pay the Government's claim.

After the matter had reached this point, Mr. DeVenuta brought suit against Mr. Lavallo individually in a New Jersey State court claiming \$500 for property damage and \$2,500 for personal injuries. The United States attorney at Newark was authorized to represent Mr. Lavallo. That court entered judgment against Mr. Lavallo in the amount of \$382 and costs amounting to \$25.90.

This committee feels that this is a case which merits legislative relief. Here the matter was considered by the Government under the procedures of the Federal Tort Claims Act (title 28 U. S. C., sec. 2672), and was turned down because the investigation showed that the negligence of the other driver, Mr. DeVenuta, caused the accident. Then, despite the fact that suit could have been brought against the United States, the other driver brought suit against the United States employee and recovered a judgment. As is observed in the report of the Department of the Navy to this committee on the bill, competent investigation showed that Mr. Lavallo was operating the Government vehicle in the course of his employment and was not negligent in any way when the accident occurred. Under these circumstances this committee has concluded that it is obviously unfair to penalize Mr. Lavallo by requiring him to pay the judgment and costs when he was acting within the scope of his employment, and suit was brought against him for the reason that the Government had refused to pay for the damage because they had found him not negligent. This results in the inconsistent situation that he would not have been sued had he been found negligent for the Government could then have paid the claim. Therefore this committee recommends that the bill be considered favorably.

The favorable report of the Department of the Navy is as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D. C., October 10, 1957.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of July 26, 1957, to the Secretary of the Navy requesting comment on H. R. 5922, a bill for the relief of William Lavallo.

The purpose of this bill is to authorize the payment to William Lavallo of the sum of \$407.90, which represents the amount of the judgment and costs for which he was held liable in the courts of the State of New Jersey, as a result of an accident which occurred on September 8, 1955, while he was driving a Government vehicle in the course of his duties as an employee of the Department of the Navy.

The investigative report on this accident indicates that it occurred at the intersection of 33d Street and Broadway in Bayonne, N. J., on September 8, 1955, and involved a Government vehicle operated by Mr. Lavallo and a 1950 Ford sedan owned and operated by a Mr. Peter DeVenuta. The investigative report places responsibility for the accident upon Mr. DeVenuta. A claim for \$382.75 was submitted by Mr. DeVenuta for damages to his automobile. This claim

was denied and the Government made a claim in the amount of \$92.82 against Mr. DeVenuta for damages to the Government vehicle. Mr. DeVenuta did not have collision insurance but did carry liability and property damage coverage with the Hartford Accident & Indemnity Co. That company denied the claim against Mr. DeVenuta.

A suit for property damage in the amount of \$500 and personal injuries in the amount of \$2,500 was instituted by Mr. DeVenuta against Mr. Lavallo in the courts of the State of New Jersey. The United States attorney at Newark was authorized to represent Mr. Lavallo. Trial was held and resulted in the entry of judgment against Mr. Lavallo in the amount of \$382 plus costs in the amount of \$25.90. The records of the Department of the Navy do not indicate whether or not Mr. Lavallo appealed from this judgment. Apparently he did not appeal.

The Department of the Navy does not require or encourage its motor-vehicle operators to obtain liability insurance covering their operations of Government vehicles in the course of their employment, inasmuch as the Federal Tort Claims Act is considered to provide an adequate remedy for third parties. That act, however, does not prohibit an injured party from suing the employee, which Mr. DeVenuta elected to do.

The Department of the Navy recommends enactment of this bill as it was determined, by competent investigation of this case, that Mr. Lavallo was operating the Government vehicle in the course of his employment and was not negligent in any way when the accident occurred.

The Department of the Navy has been advised by the Bureau of the Budget that there would be no objection to the submission of this report on H. R. 5922 to the Congress.

Sincerely yours,

E. C. STEPHAN,
Rear Admiral, United States Navy,
Chief of Legislative Liaison
(For the Secretary of the Navy).

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